MCI Communications
Corporation
1801 Pennsylvania Avenue. N.W
Washington. DC 20006
202 872 1600

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

June 18, 1996

[redacted]

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: **Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport, CCB/CPD No. 96-11, CC Docket No. 94-97, Phase I, Petition for Interim Waiver**

Dear Mr. Caton:

Enclosed herewith for filing are the original and six (6) copies of MCI Telecommunications Corporation's Comments, regarding the above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI Comments furnished for such purpose and remit same to the bearer.

Sincerely yours,

Don Sussman
Regulatory Analyst

Enclosure
DHS

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:	)	
	)	
Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport	)	**CCB/CPD No. 96-11** **CC Docket No. 94-97** **Phase I**
	)	
Petition for Interim Waiver	)	

MCI COMMENTS

I. Introduction

MCI Telecommunications Corporation ("MCI"), pursuant to the Commission's Public Notice issued June 4, 1996, hereby files its comments in response to the Petition for Interim Waiver of Prescription of Overhead Loadings for Virtual Collocation Services, filed by Bell Atlantic Telephone Company ("Bell Atlantic") on May 31, 1996.[1] In the Phase I Report and Order, the Commission required local exchange carriers ("LECs") to use overhead loadings for their virtual collocation services that did not exceed the lowest overhead loadings that

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[1] Local Exchange Carriers Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport, CC Docket No. 94-97, Phase I, Petition for Interim Waiver ("Petition"), filed May 31, 1996.

these LECs assigned to comparable DS1 and DS3 services.[2] In its Petition, Bell Atlantic seeks an interim waiver of the Commission's prescription of overhead loadings for virtual collocation services pending Commission action on its September 1995 Motion to Vacate Prescription.[3]

In its Petition, Bell Atlantic argues that it must depart from the Commission-prescribed overhead loadings for virtual collocation services because the "comparable" special access services and rates upon which the overhead loadings were based have been revised.[4] Also, Bell Atlantic implies that it cannot offer its collocation customers term payment plans, and thus, lower rates, unless it is allowed to depart from the prescribed overhead loadings.[5] Bell Atlantic has offered no evidence to support its contentions. However, while MCI believes that Bell Atlantic should be able to offer its collocation customers term pricing plans utilizing existing prescribed overhead loadings, MCI sees no reason why Bell Atlantic, or any other LEC, should be prevented from applying to virtual collocation services overhead loadings less than those which were set by the

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[2] Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection through Virtual Collocation for Special and Switched Access, Report and Order, 10 FCC Rcd 6375 (1995) ("Phase I Report and Order").

[3] Local Exchange Carriers Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport, CC Docket No. 94-97, Phase I, Motion to Vacate Prescription ("Motion to Vacate"), filed September 18, 1995.

[4] Bell Atlantic Petition at 2.

[5] Id. at 2-3.

Commission, as long as the LECs fully recover the cost of the service. Such a limited departure would allow LECs to pass cost savings through to their customers, would encourage competition in the interstate access telecommunications markets, and would be fully consistent with Commission-stated objectives.

II. Bell Atlantic's Petition Raises No New Issues and Offers No Evidence To Support Its Assertions

The Petition for Interim Waiver filed by Bell Atlantic neither raises new issues nor offers new evidence in a proceeding in which interested parties have filed tens of thousands of pages on the record. As recently as one year ago, after re-examining the definition of "comparable services," the Commission again concluded that LECs are required to extend to interconnectors the same treatment of overhead assignment that LECs give their most favored DS1 and DS3 customers.[6] In that same order, the Commission also reaffirmed the Common Carrier Bureau's ("Bureau's") finding that "discounted volume and term DS1 and DS3 services should be included within the scope of comparable services because they are the services with which interconnectors compete in the interstate access service market."[7]

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[6] Phase I Report and Order, 10 FCC Rcd 6396-6400.

[7] Id.

MCI and other parties filed oppositions to Bell Atlantic's Motion to Vacate Prescription because Bell Atlantic failed to offer any evidence in its motion which demonstrated that the overhead loadings of comparable services had changed since the Commission issued its Phase I Report and Order.[8] In the instant petition, Bell Atlantic has similarly failed to offer any evidence to support its contention that overhead loadings for comparable services have changed. MCI therefore urges the Commission, once again, to dismiss Bell Atlantic's unsupported assertion that overhead loadings applied to Bell Atlantic's comparable services have changed.

As for whether LECs should be required to apply the lowest loading assigned to the LECs' comparable DS1 and DS3 services as the basis for its overhead adjustments, the Commission reaffirmed this standard in the Phase I Report and Order. In that order, the Commission explained that this is the correct standard "because the LEC service priced with the lowest overhead loading is likely to be the service against which an interconnector's offerings directly compete."[9] It also correctly concluded that the Commission must balance LEC flexibility in assigning overheads with its goal of facilitating efficient entry into interstate access service markets by efficient providers,[10] and that

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[8] See MCI Opposition, filed September 28, 1995.

[9] Phase I Report and Order 10 FCC Rcd 6404.

[10] Id.

given the potential for LECs to engage in anticompetitive behavior by assignment of overheads to expanded interconnection services, it is necessary to restrict the ability of the LECs to assign overheads based on market conditions.[11]

Bell Atlantic has offered no compelling arguments, nor new evidence, which would cause the Commission to change its virtual collocation overhead loading standard. The logic that expanded interconnection services competes with the LEC DS1 and DS3 services priced with the lowest overhead loadings, continues to apply. Consequently, the Commission should not permit Bell Atlantic, nor any other LEC required to offer virtual collocation services, to assign overhead loadings to virtual collocation services which exceed the lowest overhead loadings applied to comparable services.

III. The Commission Prescribed Maximum Overhead Loadings for Virtual Collocation Services

In the expanded interconnection proceeding, the Commission granted LECs limited pricing flexibility in areas in which interconnectors had operating collocation arrangements. Once interconnectors acquired 100 cross-connects in a given area, these LECs were then allowed to offer volume and term discounts to their access customers. The Commission determined that "reasonable volume and term discounts can be a useful and legitimate means of pricing ...

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[11] Id.

access services to recognize the efficiencies associated with larger volumes of traffic and the certainty of longer term deals."[12]

The Commission recognized that, in certain situations, LECs should be permitted to pass on savings to its customers because volume and term plans lower the LECs' costs. If Bell Atlantic, or any other LEC, wants to offer its collocation customers term plans, it can do so by utilizing the lowest overhead factor which it applies to comparable DS1 and DS3 services. For example, if a LEC presently offers a month-to-month DS1 cross-connect rate of $12 per month, based on a cost of $10 and a prescribed overhead loading of 20 percent, it could offer term pricing plans simply by adding the 20 percent overhead loading to the lower costs associated with the term plan. In other words, if its costs for a 3-year term plan and a 5-year term plan were $8 and $6 for a DS1 cross-connect, respectively, then the rates for these term commitments would be $7.20 and $9.60, respectively. Contrary to Bell Atlantic's arguments, there is no economic reason why it cannot offer volume and term discounts to collocation services while applying the overhead levels currently prescribed by the Commission.

However, since the intent of the Commission's prescribed overhead loadings clearly was to prevent LECs from placing new entrants with which they

[12] Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd 7463 (1992).

compete in a "price squeeze,"[13] as long as LECs recover their costs there is no reason why they should not be permitted to apply overhead loadings to virtual collocation services that are less than those which were prescribed by the Commission. In the Phase I Report and Order the Commission prescribed "maximum permissible overhead loading levels for [the LECs]...based on the lowest loadings assigned to these LECs' comparable services,"[14] for those rate elements with overhead loadings greater than those applied to comparable DS1 and DS3 services.[15] It would be fully consistent with both the intent of the Commission and the wording of the Phase I Report and Order to permit LECs to depart from the prescribed overhead loadings, as long as the new overhead loadings were less than those presently prescribed by the Commission.

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[13] Phase I Report and Order 10 FCC Rcd 6403.

[14] Id. at 6396-6400.

[15] For virtual collocation rate elements with overhead loadings less than those applied to comparable services, the Commission did not prescribe overhead ceilings.

IV. Conclusion

For the above reasons, MCI urges the Commission to reject Bell Atlantic's request for interim waiver of the Commission-prescribed overhead loadings for virtual collocation services, and to clarify that LECs are currently permitted to assign overhead loadings to virtual collocation services less than those which were prescribed, as long as the LEC fully recovers its costs.

Respectfully submitted,
MCI TELECOMMUNICATIONS CORPORATION

Don Sussman
Regulatory Analyst
1801 Pennsylvania Ave., NW
Washington, D.C. 20006
(202) 887-2779

June 18, 1996

<u>STATEMENT OF VERIFICATION</u>

I have read the foregoing and, to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on June 18, 1996.

Don Sussman
1801 Pennsylvania Avenue, NW
Washington, D.C. 20006
(202) 887-2779

CERTIFICATE OF SERVICE

I, Stan Miller, do hereby certify that copies of the foregoing Comments were sent via first class mail, postage paid, to the following on this 18th day of June, 1996.

Reed Hundt**
Chairman
Federal Communications
Commission
1919 M Street, NW, Room 814
Washington, DC 20554

James Quello**
Commissioner
Federal Communications
Commission
1919 M Street, NW, Room 802
Washington, DC 20554

Susan Ness**
Commissioner
Federal Communications
Commission
1919 M Street, NW, Room 832
Washington, DC 20554

Rachelle B. Chong**
Commissioner
Federal Communications
Commission
1919 M Street, NW, Room 844
Washington, DC 20554

Regina Keeney**
Chief, Common Carrier Bureau
Federal Communications
Commission
1919 M Street, NW, Room 500
Washington, DC 20554

Judy Nitsche**
Federal Communications
Commission
1919 M Street, NW, Room 518
Washington, DC 20554

James Schlichting**(2)
Chief, Competitve Pricing Division
Federal Communications
Commission
1919 M Street, NW, Room 518
Washington, DC 20554

Paul D'Ari**
Competitve Pricing Division
Federal Communications
Commission
1919 M Street, NW, Room 518
Washington, DC 20554

Richard Metzgher**
Deputy Chief
Common Carrier Bureau
Federal Communications
Commission
1919 M Street, NW, Room 500
Washington, DC 20554

Richard Welch**
Chief, Policy & Program Planning
Division
Common Carrier Bureau
Federal Communications
Commission
1919 M Street, NW, Room 544
Washington, DC 20554

International Transcription Service**
1919 M Street, NW
Washington, DC 20554

David Porter
Vice President, Government Affairs
MFS Communications Company, Inc.
3000 K Street, NW, Ste 300
Washington, DC 20007

Heather Burnett Gold
Richard Metzger
Association for Local
Telecommunications Services
1200 19th Street., SW Ste. 560
Washington, DC 20036

Andrew D. Lipman
Swidler & Berlin
3000 K Street, NW
Suite 300
Washington, DC 20007

J. Manning Lee
Vice President-Regulatory Affairs
Teleport Communications Group Inc
2 Teleport Drive, Suite 300
Staten Island, NY 10311

Lawrence W. Katz
Edward D. Young, III
Michael E. Glover
The Bell Atlantic Companies
1320 North Court House Road
Eighth Floor
Arlington, VA 22201

John Canis
Reed, Smith Shaw & McClay
1301 K Street, NW
Washington, DC 20005

Robin A. Casey
Susan C. Gentz
Bickerstaff, Heath & Smiley
98 San Jacinto Blvd.
Suite 1800
Austin, TX 78701-4039

Heather Burnett Gold
President
Association for Local
Telecommunications Services
1200 19th Street., SW Ste. 607
Washington, DC 20036

Andrew D. Lipman
Swidler & Berlin
3000 K Street, NW
Suite 300
Washington, DC 20007

Michael S. Pabian
Ameritech
Room 4H82
2000 West Ameritech Center Drive
Hoffman Estates, IL 60196-1025

William D. Basket III
Thomas E. Taylor
David S. Bence
Frost & Jacobs
250 PNC Center
201 East Fifth Street
Cincinnati, OH 45201-5715

Robert M. Lynch
Durward D. Dupre
Thomas A. Pajda
Southwestern Bell Telephone
One Bell Center, Suite 3520
St. Louis, MO 63101

Katheryn Marie Krause
US West Communications, Inc.
Suite 700
1020 19th Street, NW
Washington, DC 20036

Brian Conboy
John L. McGrew
Melissa E. Newman
Wilkie, Farr & Gallagher
Three Lafayette Center
1155 21st Street, NW
Suite 600
Washington, DC 20036

M. Robert Sutherland
Richard M. Sbaratta
Helen A. Shockey
BellSouth Telecommunication
4300 West Peachtree Street, NE
Atlanta, GA 30375

Gail Polivy
GTE Service Corporation
1850 M Street, NW
Suite 1200
Washington, DC 20036

Jay C. Keithley
United and Central Telephone Cos.
1850 M Street, NW
Suite 1100
Washington, DC 20036

Susan McAdams
Electric Lightwave, Inc.
8100 Northeast Parkway Drive
Suite 150
Vancouver, WA 98662-6461

Hand Delivered**

Stan Miller

Stan Miller